

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOHANNES M. PLOEG, et al.,

Plaintiffs,

Case No. 1:24-cv-89

v.

HONORABLE PAUL L. MALONEY

JENKINS ESTATES LTD, et al.,

Defendants.

/

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Plaintiffs initiated this lawsuit by filing their complaint on January 30, 2024. Defendants Jenkins Estates LTD and David Jenkins filed a motion to partially dismiss the complaint. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation on January 6, 2025, recommending that this Court grant the motion in part and deny the motion in part. The Report and Recommendation was duly served on the parties. No objections have been filed. *See* 28 U.S.C. § 636(b)(1). Therefore,

**IT IS HEREBY ORDERED** that the Report and Recommendation (ECF No. 40) is APPROVED and ADOPTED as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the Motion for Partial Dismissal (ECF No. 31) is GRANTED IN PART AND DENIED IN PART.

**IT IS FURTHER ORDERED** that Plaintiffs' breach of contract claim (Count I) as to Defendant Jenkins, the fraud claim (Count III) as to both Defendants, and the personal liability claim (Count IV) against Defendant Jenkins are DISMISSED WITHOUT PREJUDICE.

Plaintiffs' breach of contract claim against Defendant Jenkins Estates LTD, and the violation of the Michigan Builders Trust Fund Act and statutory conversion claims will proceed.

Dated: January 29, 2025

/s/ Paul L. Maloney  
Paul L. Maloney  
United States District Judge